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1	IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA	
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3	United States of America	,) Criminal) No. 17-201
4	Plain	tiff,)
5	vs.) Motions Hearing)
6	PAUL JOHN MANAFORT, JR.) Washington, DC) November 21, 2017
	RICHARD W. GATES, III,	·
7	Defend	dants.)
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9	TRANSCRIPT OF MOTIONS HEARING	
10	HELD BEFORE THE HONORABLE JUDGE AMY BERMAN JACKSON	
11	UNITED S'	TATES DISTRICT JUDGE
12	A P P E A R A N C E S	
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5	ALSO PRESENT:	Andre Sidbury, Pretrial Officer
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7	Court Reporter:	Janice E. Dickman, RMR, CRR Official Court Reporter United States Courthouse, Room 6523
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1 THE COURTROOM DEPUTY: Good afternoon, Your Honor. 2 We have criminal case number 17-201-1 and 201-2, the United 3 States of America v. Paul J. Manafort, Jr., and the United 4 States of America v. Richard W. Gates, III. Both defendants 5 have waived their appearance for today's hearing. 6 Will counsel for the parties please approach the 7 lectern and identify yourself for the record. 8 MR. WEISSMANN: Andrew Weissmann and Greg Andres 9 and Kyle Freeny for the government. 10 THE COURT: Good afternoon. MR. WU: Good afternoon, Your Honor. Shanlon Wu 11 12 on behalf of Mr. Gates. And we did file a notice of his 13 understanding of his right to be here, and he's waived that 14 right. 15 THE COURT: Okay. Thank you. 16 MR. DOWNING: Good afternoon, Your Honor. Kevin 17 Downing and Tom Zehnle for Mr. Manafort. We've also advised 18 the Court that our client has waived his right to appear 19 here today. 20 THE COURT: All right. And I've seen both of the 21 written waivers and I appreciate that. And ordinarily -- I 22 think it's a very extraordinary thing to do -- you can be 23 seated -- but I'm not planning to rule on the merits of any 24 This is all generally procedural, with respect to

everything except the request for Thanksgiving. And I will

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address Thanksgiving in a moment. But there were a couple of procedural things that I wanted to talk about that just seemed easier to discuss in person.

First of all, with respect to Mr. Gates, there just seems to be some confusion about how to proceed, and I want to make myself very clear.

I thought I did make it very clear, at the bond review hearing on November 6th, that I'm open to releasing the defendants from home confinement, but that I wouldn't do it based on the unsecured appearance bond. I ruled that it would have to be a bond backed by a security or a surety bond; that was \$10 million for Mr. Manafort and \$5 million for Mr. Gates.

I read excerpts of the Bail Reform Act Section 3142(c)(1)(B) (xi) and (xii) and I detailed what had to be provided to satisfy those release conditions. And I'm not going to read it to you again. I did not rule that you had to come to an agreement with the government, you were working towards that. I'm still hopeful that that will happen. But I assured you that if you could not, you could file a motion and you could submit the financial information to me. That would enable you to make the showing described in the statute and then I could rule on that.

I want to make it very clear that no one has done that yet. Mr. Gates represented in the pleading concerning

Thanksgiving, quote, Mr. Gates makes this request on the ground that he and his wife have pledged real property, i.e. their residence, to secure the bond that has been imposed here; telling me that they've actually already done it.

Makes reference to a footnote, and the footnote says Mr.

Gates submitted the necessary paperwork to pledge the property to the Clerk of the Court on Friday, November 17th, 2017, and the Clerk of the Court has advised counsel that the paperwork has been submitted to this Court for approval.

All right. Mr. Wu, I have some questions for you. First of all, what does that mean?

MR. WU: Your Honor, we understood the process to be, from the Clerk of the Court, that first there had to be a pledging application, which has contained within it a place for a judge to sign. In addition to that, they told us to accompany that to the Clerk's Office with a copy of the deed, as well as photocopies of the photo identification of the owners.

The Clerk's Office then advised us that nothing further could happen until the judge had approved that. We understood from them that once the judge -- if the judge approves it, we would then have to go to the recorder of deeds in wherever the property is, to show them that there would be a lien filed and then have that proof brought back to the Court for that security. So that's the process that

we were following.

It did not seem, and -- and this is our ignorance if we're wrong, but it did not seem appropriate to file a motion with that because we understood that the application had first to be approved.

aback when someone from the Clerk's Office showed up in my chambers on Friday and said this was dropped off in the Clerk's Office and they asked us to bring you a copy. The Clerk's Office personnel do not serve as a messenger service and you cannot communicate with the Court by passing notes. We have ECF in this courthouse, we have local rules that everybody who joined this proceeding pro hac had to read. And I know you're deeply familiar with them.

There's no question that ultimately this piece of paper will have to be filed to complete the process of pledging the property. But, you have to operate on the docket for a number of salutary reasons. First of all, then the opposing party knows what happened, number one. Number two, then there is a precise and accurate record of everything the Court has seen. And, number three, we have a public that is tremendously interested in this case, that is reading even the things that have been filed by people that aren't parties in this case. And so you can't just sidestep this process by dropping things off in the Clerk's Office.

There's also some other problems with the document. First of all, it says the assessed value of the property is \$2.9 million and the mortgage is just under \$1.3 million. So, there's some equity there, but it's not 5 million. Number two, it's quite incomplete. There are no documents provided to verify the stated value, not even whatever assessment that you're relying upon to get to the 2.9. The only document you attach, the deed of trust, says it was 1.9 in March of 2016, which is a spectacular million-dollar appreciation over an 18-month period, and there's no verification for that at all. And most important, this is not a document that has been submitted to this Court for approval. That's just not how we're going to do this.

If you don't reach an agreement from the government and you want to get me started looking at what you have offered for security, then what you have to do is file a motion to modify the bond conditions, attach the financial documents that will establish and verify the value of the property or the assets available to the surety, just as I explained in great detail two weeks ago.

You can have this back. Mr. Haley, you'll have to be the messenger.

Because as far as the record in this case is concerned, nothing has been submitted to me by you yet. I have not ruled on it. I can't rule on things that just come

over the transom.

Now, with respect to Thanksgiving, I denied the motion that was docket 47, that was seeking release for a myriad of purposes and a myriad of events, including Thanksgiving. But I did let the parties know they could submit a specific request about the holiday.

Your motion, the new motion, docket 54, is not terribly specific. Reference has been made to attendance at two events; 11 hours worth of events on November 23rd, and seven hours more -- of two more events on November 24th. So we've got a total of 18 hours over two days for Thanksgiving. And you say they are within Virginia, but you don't say where. And there is a geographical restriction in this case. So I would like to know, where exactly does he want to go and when?

MR. WU: Your Honor, may I address the earlier portion of your remarks? Or would you like me to --

THE COURT: Briefly. I appreciate your explaining to me that this is what you thought you had to do.

MR. WU: The only other distinction I would add to that is we were not pledging that amount in the understanding that was the complete bail package.

THE COURT: I appreciate that.

MR. WU: We're trying to put something in because we're asking you for a new chance at Thanksgiving release.

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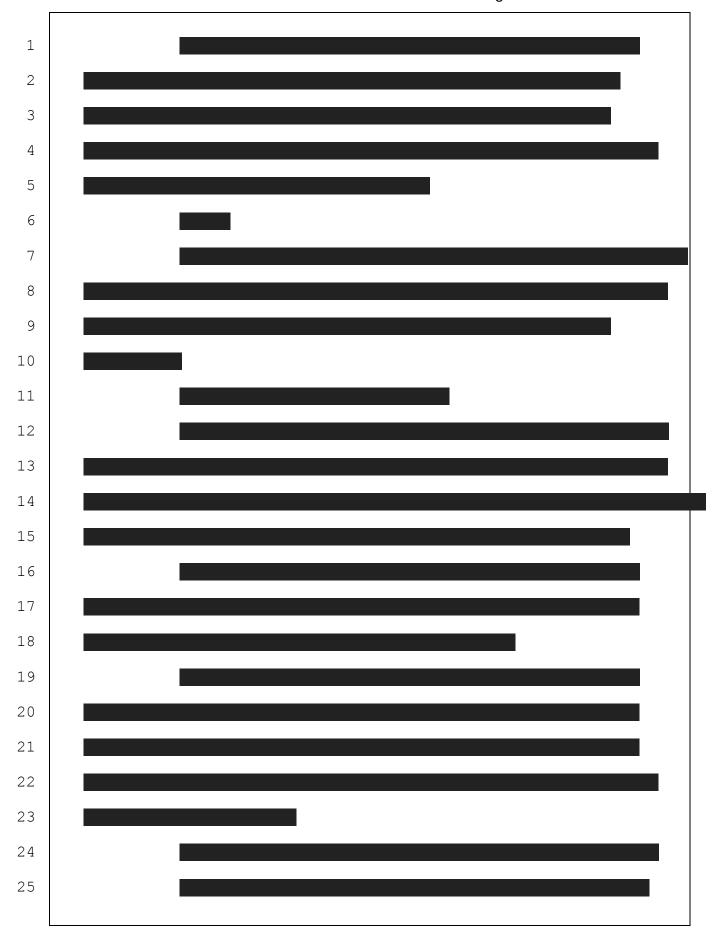
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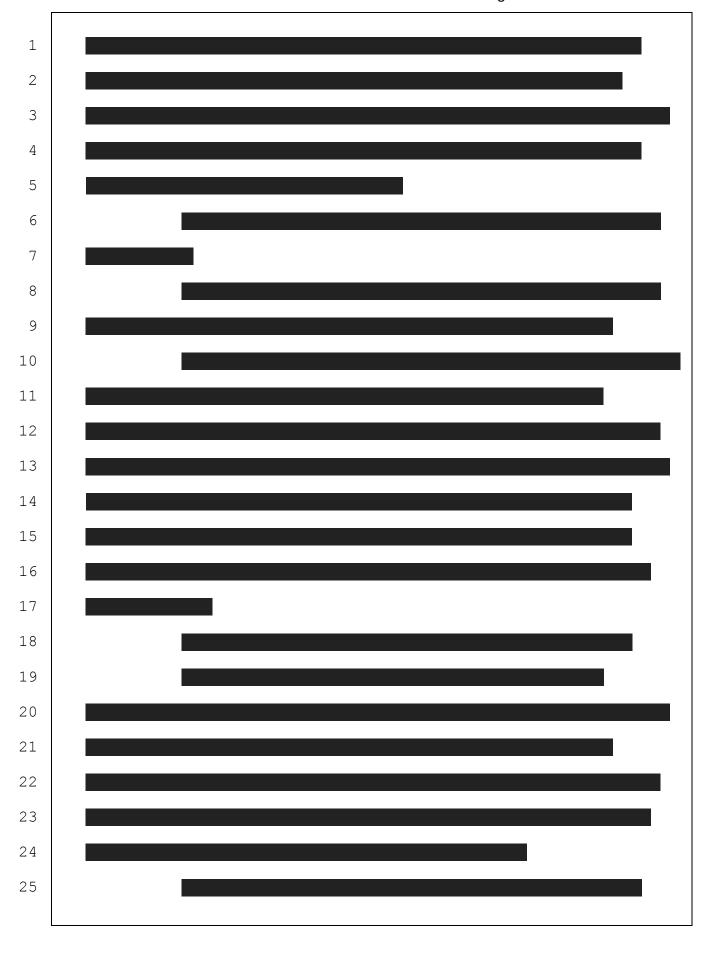
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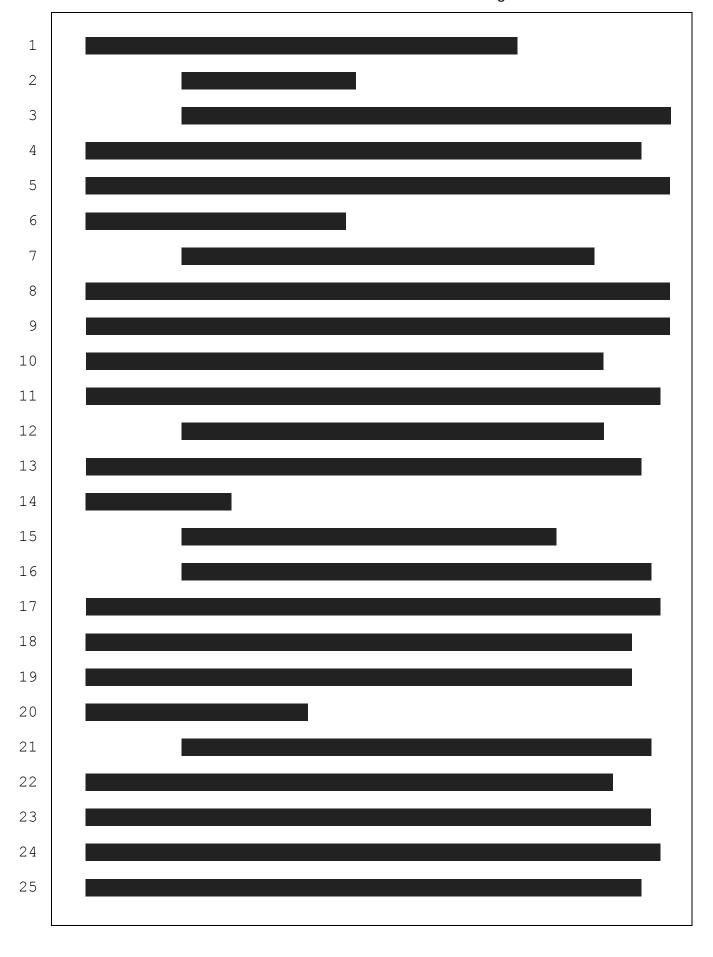
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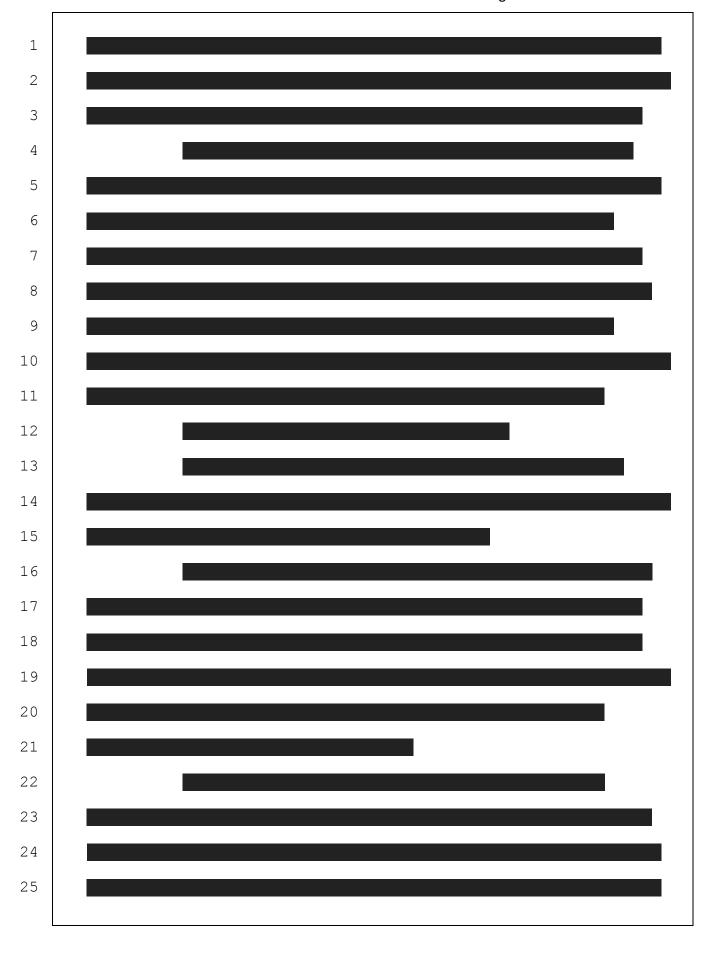
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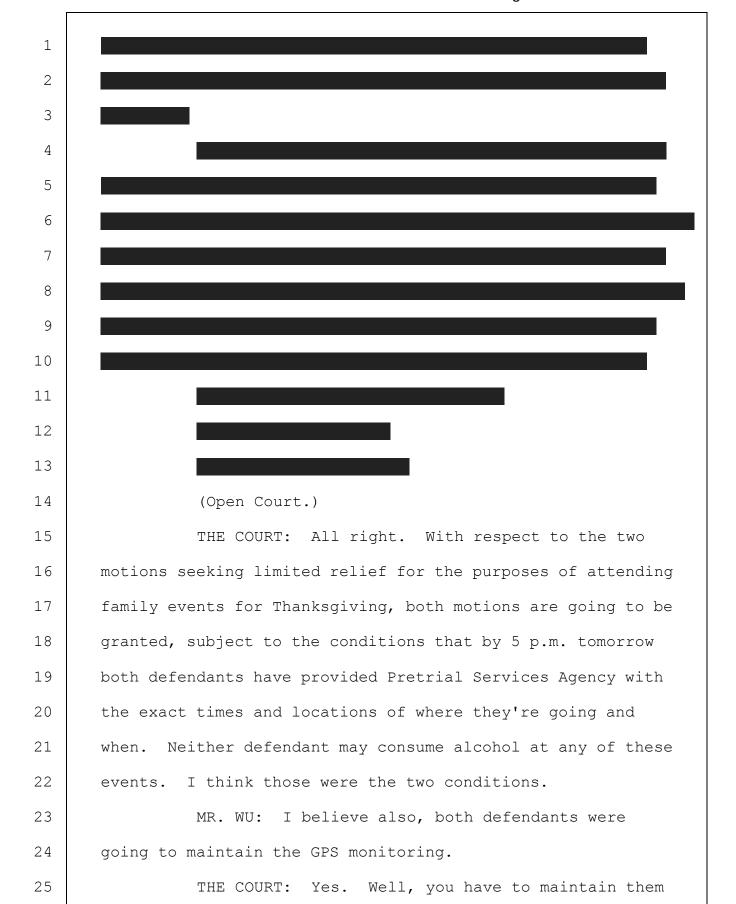
With regard to your question about location, we were deliberately vague in that in a public filing. We've also had other conversations with the government in which, first, of course, pretrial services will know the exact location, and we'll also let the government know. But -and we're happy, of course, to let the Court know. We simply didn't want to put that in a public filing for reasons, obviously, for the family. THE COURT: I didn't expect the address, but I just didn't even know if you're talking about Richmond or if you're planning to get into a car and drive to some area of Virginia. MR. WU: Would it be okay to approach at the bench to give you that information, so it would not be public? THE COURT: Yes, but then I think we need to seal this transcript because otherwise our transcripts will be all docketed. So this portion of the hearing will be sealed. And, yes, you can approach the bench. One of the counsel for Mr. Manafort might as well come, because I'm going to ask you the same question. (Sealed bench discussion:)











1 because you can't take them off. So you're not going to be 2 relieved from your GPS monitoring condition, you're just 3 being permitted to depart from the home for the limited 4 purposes that we've identified. 5 All right. I also just wanted to establish, the 6 government filed a motion early in these proceedings, docket 7 19, seeking a retraining order relating to one of Mr. Manafort's insurance policies. Are you going to oppose 8 9 that, or is that now wrapped up in your ongoing bond 10 negotiations? MR. DOWNING: Your Honor, I think it's part of the 11 12 discussions that we're having with the government. So we'll 13 get back to you on that. 14 THE COURT: So if it's not covered in those 15 discussions, at some point you're going to need to put your 16 position with respect to that on the record, but I'm not 17 going to expect it right now. 18 Finally, the government filed a motion to review 19 the representation of defendant Gates, docket 52. I'm not 20 going to address the merits until the defense has an 21 opportunity to respond. Although I do have a few questions 22 I want to ask you this morning. 23 So, Mr. Wu, how long would your team like to file 24 a response to that motion?

MR. WU: Your Honor, I would ask for ten days.

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THE COURT: All right. I know we're bearing down on Thanksgiving here.

MR. WU: That's true, Your Honor. I may have been overly optimistic. I forgot about that.

THE COURT: Why don't we say December 4th. That gives you all next week and then -- so Monday, December 4th, opposition will be due.

I'm not going to ask you any questions, but I do have a couple of questions for the prosecution about it.

I understand in the motion that you've set forth some financial relationships between defendant Gates and the defendant in the New York matter. But I really had some difficulty discerning what is the conflict that actually exists on the part of the lawyer. You say on, page 2, that the conduct in the two cases is separate and apart, but you posit, on page 3, that Gates might have knowledge about the allegations against Brown and he could be a potential witness in the case against Brown. And then you say Brown might have knowledge about Gates and it's at least possible that Gates or Brown could become a witness for the government, or that information Mr. Mack learned from Brown or Gates could be relevant to the defense of the other. then you say however unlikely those propositions are, that I should assert myself into the attorney-client relationship in an abundance of caution.

1 So I wasn't sure why you're talking about 2 possibilities. Is Mr. Brown a witness in your case? 3 MR. ANDRES: He's not, Judge. THE COURT: And is Mr. Gates a witness in the 4 5 New York case? 6 MR. ANDRES: Not that I'm aware of. He's not, Judge. 7 THE COURT: All right. So then what's the conflict you want me to address? 8 9 MR. ANDRES: It, again, Judge, is a potential 10 conflict. It's not necessarily one that exists. 11 certainly it's one that could develop over time; that is, 12 over the course of either of these cases. It's possible 13 that either could be called as a witness in either case. 14 So our understanding from the prosecutors in the 15 Southern District case is that there's information that Mr. 16 Gates was involved in the transactions that underlie the --17 that indictment; that is, he's had money transferred into 18 one of the entities involved with that investigation. He 19 certainly could be a victim of that scheme, or he could be a 20 co-conspirator. The government isn't alleging either. what we want to avoid is the situation six months down the 21 22 line where Mr. Gates learns that there's an issue with 23 respect to his representation and it's not something that 24 was addressed ahead of time. 25 So it absolutely only relates to the potential

conflict. As we mentioned in our filing, the prosecutors in the Southern District of New York have also filed a letter with Judge Wood, similar to this one, to have a hearing.

THE COURT: But, I guess that case is supposed to go to trial in March.

MR. ANDRES: Correct.

THE COURT: I don't understand why we're talking about somebody who could suddenly turn out to be a witness in a case where they've already had their grand jury investigation, they've already brought an indictment, and they know who they're planning to call as a witness.

MR. ANDRES: Judge, because as we read the law, it requires the government to bring forward, or for the Court to address even the potential conflict at the earliest potential stage. So even, again, that it's only a potential conflict, as we read the controlling law, it requires an inquiry to Mr. Gates that he's aware of this even potential conflict.

THE COURT: All right. Well, one thing I will ask the government to do, at any time that you understand that there's been any ruling coming out of the New York Court, if you could provide -- you know, docket it, just file a notice that there's been some development, so that we can all be aware of it.

And I'll wait and see. I'm not going to ask Mr.

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       Wu to address it now. I'm sure you want to fully talk to
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       Mr. Mack and figure out what your position is.
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                 But, I just really didn't understand what you were
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       trying to tell me. And you've already clarified a little
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       bit, so that's helpful.
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                 I don't have anything else that I need to talk
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       about today. Is there anything else that the government
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       needs to bring up at this time?
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                 MR. ANDRES: Not from the government, Judge.
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       Thank you.
                 THE COURT: Anything further for Mr. Gates?
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                 MR. WU: Not for Mr. Gates.
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                 THE COURT: Anything further from Mr. Manafort?
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                 MR. DOWNING: No, Your Honor.
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                 THE COURT: Okay. All right. Thank you very
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       much, everybody.
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2	CERTIFICATE OF OFFICIAL COURT REPORTER
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5	I, JANICE DICKMAN, do hereby certify that the above
6	and foregoing constitutes a true and accurate transcript of
7	my stenograph notes and is a full, true and complete
8	transcript of the proceedings to the best of my ability.
9	Dated this 22nd day of November, 2017.
10	
11	
12	/s/
13	Janice E. Dickman, CRR, RMR Official Court Reporter
14	Room 6523 333 Constitution Avenue NW
15	Washington, D.C. 20001
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